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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,836	02/16/2001	Scott Gillespie	8519-000001	5792
27572	7590	09/19/2005	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			THAI, CANG G	
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			3629	

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/784,836	GILLESPIE, SCOTT
	Examiner Cang G. Thai	Art Unit 3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 February 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-46 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. It is noted that this application appears to claim subject matter disclosed in prior Application No. 60/183,066, filed 02/16/2000. A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e) or 120. See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all non-provisional applications. Also, the current status of all non-provisional parent applications referenced should be included.

If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C.

119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 06/11/2001, 12/05/2001, 08/27/2002, and 04/26/2004 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 23-46 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere idea in the abstract (i.e. abstract ideas, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the “progress of science and the useful arts” (i.e. physical sciences as opposed to social sciences for example), and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, use or advance the technological arts.

In the present case, Claim 23 is directed to “a computer-implemented method for determining a fair market share for a given airline in relation to a given city pair, comprising:

providing airline schedule data for each flight serving the given city pair;

a plurality of airlines, the airline schedule data including aircraft type data;

determining an incremental travel time for each flight serving the city pair using the flight schedule data; and

determining a fair market share for the given airline, the fair market share based on the frequency of flights serving the given city for the given airline, the aircraft type for each flight associated with the given airline, and the incremental travel time of each flight associated with the given airline”.

In the present case, Claim 23 does not require any technology. The recited steps of determining a fair market share does not apply, involve, use, or advance the technological arts since all of the recited steps can be done with no technology at all. The recited steps only constitute an idea for determining a fair market share.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful (specific utility), concrete (repeatability and/or implementation without undue experimentation), and tangible (a real or actual affect) result.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

6. Claims 1-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, in the body of the claim recites the term "market share". The term "market share" which normally means "the percentage of the market for a product or service that a company supplies", but there is no step of "the percentage of the market for the product" ^{ed} mentioning in the body of the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-46 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,897,620 (WALKER ET AL).

As for Claim 1, WALKER discloses an airline travel supplier evaluation system for analyzing airline flight information in relation to one or more predefined city pairs for a given airline customer, comprising:

a source of airline schedule data for each predefined city pair {See Fig. 1, Element 150};
a memory space for storing the airline schedule data and the predefined city pairs {See Fig. 1, Element 300};
an airline fair market share module that accesses the airline schedule data and the predefined city pairs, the airline fair market share module being operable to calculate an incremental travel time for each flight record serving a given city pair in relation to the fastest flight serving the given city pair and to determine airline fair market share data for each airline in relation to each city pair of the predefined city pairs, where the airline fair market share data for a given airline is based in part on the incremental travel time associated with the given airline {See Fig. 1, Element 200}; and
a scenario market share module that receives non-schedule based factors, and determines scenario market share data for each airline in relation to each city pair of the predefined city pairs, where the scenario market share data is derived from the airline's fair market share data and the non-schedule based factors {See Fig. 1, Element 160}.

As for Claim 2, WALKER discloses the airline travel supplier evaluation system of Claim 1 wherein the airline fair market share module is operable to compute an elapsed time for each flight record serving a given city pair using the flight schedule data, identify a baseline flight record, the baseline flight record having the shortest elapsed travel time from amongst the flight records serving the given city pair; and compute the incremental travel time for each flight record serving the given city pair, where the incremental travel time is the difference between the elapsed travel time of a given flight record and the elapsed travel time for the baseline flight record {See Fig. 1, Element 105}.

As for Claim 3, WALKER discloses the airline travel supplier evaluation system of Claim 1 wherein the airline schedule data further includes aircraft type data for each flight record serving the predefined city pairs, and where the airline fair market share data for a given airline is based on the frequency of the flight records associated with given airline, the aircraft type for each flight record associated with given airline, and the incremental travel time for each flight record associated with the given airline {See Fig. 2, Element 230}.

As for Claim 4, WALKER discloses the airline travel supplier evaluation system of Claim 1 wherein the non-schedule based factors is at least one of a travel policy factor, the travel policy factor being indicative of the airline customer's ability to shift travelers towards or away from any given airline, a sales level factor, the sales level factor being indicative of an airline's ability to attract the travelers of the given airline customer to the airline, and a sales level-supplier status factor, where a supplier status indicative of an airline customer's preference to have its travelers use the airline is assigned to one or

more of the plurality of airlines and the sales level-supplier status factor is based on the supplier status and a corresponding sales level factor {See Fig. 2, Element 240}.

As for Claim 5, WALKER discloses the airline travel supplier evaluation system of Claim 1 further comprising a source of projected airline travel data over a predefined time period for the given airline customer; a source of airline purchase data; and an expense-based cost module that accesses the projected airline travel data and the airline purchase data, and determines expected travel expense data for the given airline customer based on the scenario market share data {See Fig. 2, Element 245}.

As for Claim 6, WALKER discloses the airline travel supplier evaluation system of Claim 5 further comprising a source of pricing data relating to an existing or prospective agreement between the given airline customer and at least one airline, wherein the expense-based cost module further operable to determine expected travel expense data based in part on the pricing data {See Fig. 2, Element 250}.

As for Claim 7, WALKER discloses the airline travel supplier evaluation system of Claim 1 further comprising a source of projected airline travel data over a predefined time period for the given airline customer; and a time-based cost module that accesses the projected airline travel data, the airline schedule data and the scenario market share data; and determines expected travel time for the given airline customer based on the scenario market share data, the time-based cost module further operable to receive a value for a traveler's time and determine expected travel time cost data based on the traveler's time value data and the expected travel time for the given airline customer {See Fig. 2, Element 255}.

As for Claim 8, which has the same limitations as in Claim 1, therefore, they are rejected for the similar reason set for in Claim 1.

As for Claim 9, which has the same limitation as in Claim 2, therefore, they are rejected for the similar reason set for in Claim 2.

As for Claim 10, which has the same limitation as in Claim 3, therefore, they are rejected for the similar reason set for in Claim 3.

As for Claim 11, WALKER discloses the airline travel supplier evaluation system of Claim 10 wherein the airline fair market share module is operable to calculate an incremental travel time for each flight record serving a given city pair in relation to other flight records serving the given city pair, such that the airline fair market share data for a given airline is in part based on the incremental travel time for each flight record associated with the given airline {See Fig. 3, Element 240}.

As for Claim 12, WALKER discloses the airline travel supplier evaluation system of Claim 8 wherein the non-schedule based factors is at least one of a travel policy factor, the travel policy factor being indicative of an airline customer's ability to shift travelers towards or away from any given airline, a sales level factor, the sales level factor being indicative of an airline's ability to attract the travelers of the given airline customer to the airline, and a sales level-supplier status factor, where a supplier status indicative of an airline customer's preference to have its travelers use the airline is assigned to one or more the plurality of airlines and the sales level-supplier status factor is based on the supplier status and a corresponding sales level factor {See Fig. 4, Element 240}.

As for Claim 13, WALKER discloses the airline travel supplier evaluation system of Claim 8 further comprising a source of airline purchase data; and an expense-based cost module that accesses the projected airline travel data and the airline purchase data, and determines expected travel expense data for the given airline customer based on the scenario market share data {See Fig. 4, Element 250}.

As for Claim 14, WALKER discloses the airline travel supplier evaluation system of Claim 13 further comprising a total travel cost module that receives the expected travel time cost data from the time-based cost module and the expected travel expense data from the expense-based cost module, and determines a total travel cost for the given airline customer {See Fig. 4, Element 230}.

As for Claim 15, WALKER discloses the airline travel supplier evaluation system of Claim 13 further data relating to an existing or prospective comprising a source of pricing agreement between the given airline customer and at least one airline, wherein the expense-based cost module further operable to determine expected travel expense data based in part on the pricing data {See Fig. 4, Element 200}.

As for Claim 16, which has the same limitation as in Claims 1,8 and 13, respectively, therefore, they are rejected for the similar reason set for in Claim 1, 8, and 13, respectively.

As for Claim 17, which has the same limitation as in Claim 9, therefore, they are rejected for the similar reason set for in Claim 9.

As for Claim 18, which has the same limitation as in Claim 11, therefore, they are rejected for the similar reason set for in Claim 11.

As for Claim 19, which has the same limitation as in Claim 8, therefore, they are rejected for the similar reason set for in Claim 8.

As for Claim 20, which has the same limitation as in Claim 12, therefore, they are rejected for the similar reason set for in Claim 12.

As for Claim 21, which has the same limitation as in Claim 15, therefore, they are rejected for the similar reason set for in Claim 15.

As for Claim 22, which has the same limitation as in Claim 14, therefore, they are rejected for the similar reason set for in Claim 14.

As for Claim 23, WALKER discloses a computer-implemented method for determining a fair market share for a given airline in relation to a given city pair, comprising:

providing airline schedule data for each flight serving the given city pair {See Fig. 11a, Element 1100;

a plurality of airlines, the airline schedule data including aircraft type data {See Fig. 7, Element 730};

determining an incremental travel time for each flight serving the city pair using the flight schedule data {See Fig. 7, Element 720}; and

determining a fair market share for the given airline, the fair market share based on the frequency of flights serving the given city for the given airline, the aircraft type for each flight associated with the given airline, and the incremental travel time of each flight associated with the given airline {See Fig. 6, Element 650}.

As for Claim 24, WALKER discloses the computer-implemented method of Claim 23 wherein the airline schedule data further defined as a plurality of flight records for the given city pair, such that each flight record is indicative of one or more flights that serve the given city pair and include a record identifier, an airline identifier, a frequency of the flights over a predefined time period, and detail flight schedule data for each flight comprising the flight record {See Fig. 11a, Element 1125}.

As for Claim 25, WALKER discloses the computer-implemented method of Claim 24 wherein the step of determining incremental travel time further comprises the steps of:

computing an elapsed travel time for each flight record {See Fig. 11b, Element 1135};

identifying a baseline flight record, the baseline flight record having the shortest elapsed travel time from amongst the flight records serving the given city pair {See Fig. 11b, Element 1150}; and

computing an incremental travel time for each flight record, where the incremental travel time is the difference between the elapsed travel time of a given flight record and the elapsed travel time for the baseline flight record {See Fig. 11b, Element 1155}.

As for Claim 26, WALKER discloses the computer-implemented method of Claim 25 wherein the step of determining a fair market share further comprises the steps of: determining an aircraft type Weighting factor for each flight record {See Fig. 11c, Element 1160};

determining an incremental travel time weighting factor for each flight record

{See Fig. 11c, Element 1165};

determining a pull value for each flight record, where the pull value is computed by multiplying the frequency associated with the flight record with the aircraft type weighting factor and with the incremental travel time weighting factor {See Fig. 11c, Element 1170}; and

determining a ratio between a sum of the pull values for each of the flight records associated with the given airline and a total sum of the pull values for the plurality of flight records, thereby yielding the fair market share for the given airline {See Fig. 11c, Element 1175}.

As for Claim 27, WALKER discloses a computer-implemented method for determining a fair market share for a given airline in relation to a given city pair, comprising;

providing airline schedule data for a plurality of airlines, the airline flight information including a set of flights which correspond to the given city pair and each flight having an elapsed travel time {See Fig. 14a, Element 1400};

identifying a baseline flight, the baseline flight having the shortest elapsed travel time from amongst the set of flights {See Fig. 14a, Element 1405};

computing an incremental travel time for each flight in the set of flights, where the incremental travel time is the difference between the elapsed travel time of a flight and the elapsed travel time for the baseline flight {See Fig. 14a, Element 1410}; and

determining a fair market share for a given airline from the plurality of airlines, where the fair market share is based in part on the incremental travel time of each flight associated with the given airline {See Fig. 14a, Element 1425}.

As for Claim 28, WALKER discloses the computer-implemented method of Claim 27 wherein the set of flights are grouped into a plurality of flight records, such that each flight record is indicative of one or more flights that serve the given city pair and include a record identifier, an airline identifier, a frequency of the flights over a predefined time period, and detail flight schedule data for each flight comprising the flight record {See Fig. 15a, Element 1505}.

As for Claim 29, which has the same limitation as in Claim 26, therefore, they are rejected for the similar reason set for in Claim 26.

As for Claim 30, which has the same limitation as in Claim 23, therefore, they are rejected for the similar reason set for in Claim 23.

As for Claim 31, WALKER discloses the computer-implemented method of Claim 30 further comprises the steps of:

determining a second travel policy factor for the given airline customer {See Fig. 15b, Element 1530}; and

deriving the scenario market share for the given airline in relation to the given city pair from the fair market share for the given airline in part based on the second travel policy factor {See Fig. 15b, Element 1535}.

As for Claim 32, WALKER discloses the computer-implemented method of Claim 30 further comprising the step of determining a sales level factor for one or more of the

plurality of airlines, the sales level factor being indicative of an airline's ability to attract the travelers of an airline customer to the airline, such that the scenario market share for the given airline is in part based on the sales level factor associated with the given airline {See Fig. 15b, Element 1560}.

As for Claim 33, WALKER discloses the computer-implemented method of Claim 31 further comprising the steps of

assigning a supplier status for one or more of the plurality of airlines, the supplier status being indicative of an airline customer's preference of having its travelers use the airline {See Fig. 11a, Element 1100}; and

determining a sales level-supplier status factor for the given airline, where the sales level-supplier status factor is based on the supplier status and the corresponding sales level factor for the given airlines, such that the scenario market share for the given airline is in part based on the sales level-supplier status factor associated with the given airline {See Fig. 11a, Element 1110}.

As for Claim 34, WALKER discloses a computer-implemented method for determining a scenario market share for a given airline selected from a plurality of airlines, comprising;

providing a fair market share for the given airline in relation to a given city pair, such that the fair market share is based on schedule-based factors associated with the flights serving the given city pair {See Fig. 11a, Element 1115};

determining a sales level factor for one or more of the plurality of airlines, the sales level factor being indicative of an airline's ability to shift the travelers of an airline customer to the airline {See Fig. 11a, Element 1120}; and

deriving the scenario market share for the given airline from the fair market share for the given airline in part based on the sales level factor associated with the given airline {See Fig. 11a, Element 1125}.

As for Claim 35, WALKER discloses the computer-implemented method of Claim 34 further comprising the steps of:

determining a second sales level factor for each of the plurality of airlines {See Fig. 11b, Element 1150}; and

determining the scenario market share for the given airline by adjusting the fair market share for the given airline in part based on the second sales level factor associated with the given airline {See Fig. 11b, Element 1155}.

As for Claim 36, WALKER discloses the computer-implemented method of Claim 34 further comprising the steps of:

assigning a supplier status for each of the plurality of airlines, the supplier status being indicative of an airline customer's preference of having its travelers use the airline {See Fig. 12, Element 1200};

determining a sales level-supplier status factor for the given airline, where the sales level-supplier status factor is based on the supplier status and the corresponding sales level factor for the given airline {See Fig. 12, Element 1205}; and

deriving the scenario market share for the given airline from the fair market share for the given airline in part based on the sales level-supplier status factor associated with the given airline {See Fig. 12, Element 1210}.

As for Claim 37, WALKER discloses the computer-implemented method of Claim 34 further comprising the step of determining a travel policy factor for a given airline customer, the travel policy factor being indicative of an airline customer's ability to shift travelers towards or away from any given airline, where the scenario market share for the given airline is in part based on the travel policy factor {See Fig. 12, Element 1215}.

As for Claim 38, WALKER discloses a computer-implemented method for analyzing airline travel cost information in relation to one or more predefined city pairs for a given airline customer, comprising;

providing airline schedule data for a plurality of airlines {See Fig. 12, Element 1200},

providing projected airline travel data over a predefined time period in relation each of the predefined city pairs for the given airline customer {See Fig. 12, Element 1205};

providing airline fair market share data for each airline in relation to each of the predefined city pairs {See Fig. 12, Element 1210};

determining expected travel time in relation to each airline serving the one or more predefined city pairs, where the expected travel time is computed from the projected airline travel data, the airline schedule data and the airline fair market share data {See Fig. 12, Element 1215};

identifying a value for a traveler's time {See Fig. 12, Element 1220}; and determining expected travel time cost data in relation to each airline serving the one or more city pairs, where the expected travel time cost data is computed by multiplying the value of a traveler's time by the expected travel time {See Fig. 13a, Element 1300}.

As for Claim 39, WALKER discloses a method for defining an airline pricing agreement between an airline customer and a given airline, comprising;

identifying one or more city pairs which are used by travelers of the airline customer, the city pairs being serviced by the given airline {See Fig. 4, Element 150};

determining a fair market share for the given airline in relation to at least one of the city pairs {See Fig. 4, Element 240}; and

using the fair market share as a basis for a pricing agreement between the airline customer and the given airline {See Fig. 4, Element 250}.

As for Claim 40, WALKER discloses the method of Claim 39 using the fair market share further comprises defining a pricing arrangement in connection with a volume of the customer's airline travel during a predefined time period, where the volume corresponds to the fair market share for the given airline during the predefined time period {See Fig. 4, Element 200}.

As for Claim 41, WALKER discloses the method of Claim 40 further comprising specifying a minimum or a predefined range of deviation from the fair market share for the volume of travelers from the airline customer {See Fig. 4, Element 252}.

As for Claim 42, WALKER discloses the method of Claim 39 wherein the step of determining a fair market share further comprises calculating the fair market share for the given airline based on a frequency of the flights serving the city pair, an aircraft type for each flight serving the city pair, and an incremental travel time of each flight associated with the city pair {See Fig. 6, Element 230}.

As for Claim 43, WALKER discloses the method of Claim 42 wherein the incremental travel time is determined by the steps of:

computing an elapsed travel time for each flight servicing the city pair {See Fig. 7, Element 240};

identifying a baseline flight, the baseline flight having the shortest elapsed travel time from amongst the flights servicing the city pair {See Fig. 7, Element 720}; and

computing an incremental travel time for each flight, where the incremental travel time is the difference between the elapsed travel time of a flight and the elapsed travel time for the baseline flight {See Fig. 7, Element 740}.

As for Claim 44, which has the same limitation as in Claim 39, therefore, they are rejected for the similar reason set for in Claim 39.

As for Claim 45, which has the same limitation as in Claim 40, therefore, they are rejected for the similar reason set for in Claim 40.

As for Claim 46, which has the same limitation as in Claim 41, therefore, they are rejected for the similar reason set for in Claim 41.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

I. U.S. Patent:

- 1) U.S. Patent No. 6,336,097 (SCIPIONI) is cited to teach an apparatus, system and methods for constructing large numbers of travel fares,
- 2) U.S. Patent No. 6,434,533 (FITZGERALD) is cited to teach a method for the exchange, analysis, and reporting of performance data in business with time-dependent inventory, and
- 3) U.S. Patent No. 6,199,050 (ALAIA ET AL) is cited to teach a method and system for bidding in electronic auctions using flexible bidder-determined line-item guidelines.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cang (James) G. Thai whose telephone number is (571) 272-6499. The examiner can normally be reached on 6:30 AM - 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CGT
09/4/2005

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